



## **Important Behavioral Health Information: End of the Public Health Emergency (PHE)**

**May 16, 2023**

At the beginning of the COVID-19 pandemic, the federal government declared a Public Health Emergency (PHE) and relaxed certain requirements to ensure Medicaid members could continue to access healthcare services. The federal Department of Health and Human Services declared that the federal PHE ended on May 11, 2023. Starting May 12, 2023, some billing flexibilities and how MaineCare members access health care services are returning to how they were prior to the PHE.

Below is a list of flexibilities by policy section as described in the [MaineCare Benefits Manual \(MBM\)](#). This document may not address every flexibility in effect for Behavioral Health services during the PHE; there may have been additional federal flexibilities. Please reference the MBM for complete descriptions of MaineCare service policies.

### **Flexibilities Ending May 11, 2023**

All flexibilities listed below ended May 11, 2023.

#### **Eligibility and Authorization**

- The Department temporarily waived the telehealth requirement of advance written notice prior to services under Section 4.06-2(B) of Chapter I, Section 4: Telehealth Services.
- The Department temporarily waived the telehealth requirement of comparability, requiring that Interactive Telehealth Services be of comparable quality to what they would be had they been delivered in person as described in MBM Chapter I, Section 4 Subsection 4.04-1(2). Requests for this exemption were handled on a case-by-case basis through a clinical review by the Department. This review determined whether members faced imminent harm in the absence of a telehealth mode of delivery for a particular service due to the member's inability to receive said service in-person as a result of the PHE.
- The Department temporarily allowed members to retain eligibility through previously rendered diagnoses and clinical judgment for Community Support Services as described in MBM Chapter II, Section 17: Community Support Services, Subsection 17.02.
- For Community Integration Services as described in MBM Chapter II, Section 17, Subsection 17.04-1, providers were temporarily permitted to verify that a member meets specific eligibility requirements under MBM Chapter II, Section 17, Subsection 17.02-3 within sixty (60) days of the start date of services. After May 11, 2023, verification must occur within thirty (30) days of the start date of services.

## **Staffing Changes**

- The Department temporarily considered Direct Support Professional (DSP) as qualified providers to provide the following services:
  - Residential care services, emotional development skills training, daily living skills training, Interpersonal skills training, and community skills training.
  - Home and Community Treatment services (HCT)
  - Private Non-Medical Institution services (PNMI)
- The Department temporarily considered Direct Support Professionals (DSP) as Qualified Staff to provide PNMI E services as described in MBM Chapter II, Section 97: Private Non-Medical Institutions, Subsection 97.07-2.
- The Department temporarily allowed Alcohol and Drug Counseling Aides (ADCA) to provide Opioid Treatment Program (OTP) services previously only provided by Certified Alcohol and Drug Counselors (CADC). This flexibility will discontinue for services described in MBM Chapter II, Section 97, Subsection 97.04-13 after May 11, 2023.
- The Department temporarily considered Advanced Practice Providers (Physicians Assistants, Nurse Practitioners, and Clinical Nurse Specialists) as qualified providers to order and recertify a Service Plan as described in MBM Chapter II, Section 97, Subsection 97.08-1(A) and Plans of Care as described in Subsection 97.08-3.
- Under MBM Chapter II, Section 97, Subsection 97.07-2 (F), the Department temporarily allowed Direct Support Professionals to qualify as “Other Qualified Child Care Facility Staff.”

## **Credentialing Flexibilities**

- The Department temporarily granted additional days for Behavioral Health Professionals (BHP) to begin training and complete certification as described in MBM Chapter II, Section 65: Behavioral Health Services, Subsection 65.05-9. A staff member meeting the educational requirement in Subsection 65.05-9.D had ninety (90) days as of the date of hire to begin receiving the BHP training. The provisional candidate had one (1) year and three (3) months from the date of hire to complete the training and obtain certification. After May 11, 2023, training must begin within thirty (30) days from date of hire. The provisional candidate must complete the training and obtain certification within one (1) year from the date of hire.

## **Flexibilities Continuing after May 11, 2023**

All flexibilities listed below are continuing after May 11, 2023.

## **Eligibility and Authorization**

- The Department will continue to allow telephonic services to be delivered via telephone when appropriate. Telehealth addition of telephone-only Evaluation and Management codes have been incorporated into rule via related initiatives, please see MBM Chapter I, Section 4, Subsection 4.07-4 for procedure codes and corresponding rates.

## **Staffing Changes**

- The Department will allow Alcohol and Drug Counseling Aides (ADCA) to provide Opioid Treatment Program (OTP) services when practicing within the scope of that certification.
- For Crisis Services, the Department has updated Section 65, Subsection 65.05-1 to provide that Staff providing Crisis Services include Clinicians, Mental Health Rehabilitation Technicians (MHRT), Behavioral Health Professionals (BHP), or Direct Support Professionals (DSP) with certification at the level appropriate for the services being delivered and for the population being served. Supervisors of MHRT, BHP, and DSP staff must be Clinicians, within the scope of their licensure.

## **Additional Flexibilities**

- In accordance with recommendations set forth by the Substance Abuse and Mental Health Services Administration (SAMHSA), OTPs will continue to be exempt from the unsupervised take-home medication requirements of 42 C.F.R. § 8.12(i) (Federal Opioid Treatment Standards). The exemption will replace and supersede the exemption announced in SAMHSA's OTP guidance issued on March 16, 2020. Please see SAMHSA's [Methadone Take-Home Flexibilities Extension Guidance](#) for additional information.

The Department will obtain any appropriate federal approvals and intends to engage in rulemaking to reflect permanent changes. The Department will exercise enforcement discretion with respect to provisions where the rule has not yet been updated.

Further guidance will be distributed as information becomes available, additional resources are available on MaineCare's [COVID-19 and End of the PHE webpage](#).

For questions related to this document and the End of the PHE, please email [DHHSMaineCareEndofPHE@maine.gov](mailto:DHHSMaineCareEndofPHE@maine.gov).